

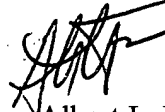
- *Admitted only in Maryland
- *Admitted only in Virginia
- Practice Limited to Federal Agencies

Commissioner for Patents
July 20, 2005
Page 2

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Albert L. Ferro
Attorney for Applicants
Registration No. 44,679

ALF/MJM/shr
Enclosures

SKGF_422640.1

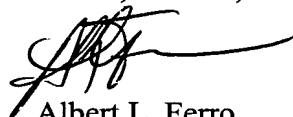
improper because claims 26-65 of the present divisional application are identical to claims 66-105 that were subject to a restriction requirement during prosecution of the parent application.

Because the double patenting rejection was improper, the Applicants respectfully request that the Terminal Disclaimer filed on February 22, 2005 be withdrawn.

This Petition is accompanied by our Credit Card Payment Form (PTO-2038) in payment of the petition fee set forth in 37 C.F.R. § 1.17(f). The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

Sterne, Kessler, Goldstein & Fox P.L.L.C.



Albert L. Ferro
Attorney for Applicants
Registration No. 44,679

Date: JULY 20, 2005

1100 New York Avenue, NW
Washington, DC 20005-3934



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Zierenberg *et al.*

Appl. No.: 10/617,804

Filed: July 14, 2003

For: **Needle-Less Injector of Miniature
Type**

Confirmation No.: 4166

Art Unit: 3742

Examiner: Thor S. Campbell

Atty. Docket: 0652.2060002/ALF/MJM

Petition to Withdraw Terminal Disclaimer under 37 C.F.R. § 1.182

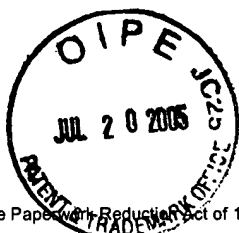
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Mail Stop Petition

Sir:

The Petitioners request that the Terminal Disclaimer filed in the above-captioned application be withdrawn as unnecessary for the following reasons.

The Terminal Disclaimer filed on February 22, 2005 should be withdrawn because it was filed in response to an improper double patenting rejection. Under 35 U.S.C. § 121, a divisional application cannot be rejected over a patent that issued from the parent application when the divisional application was filed as a result of a restriction requirement. The present application is a divisional of U.S. Application Serial No. 09/797,001 ("the '001 application"), now issued as U.S. Patent No. 6,689,092 ("the '092 patent"). Claims 26-65 of the present application were presented by the Applicants as claims 66-105 during the prosecution of the '001 application. However, the Examiner refrained from entering the claims asserting that the method claims were drawn to a non-elected invention because the apparatus and method of use were independent and distinct inventions. During prosecution of the present application, the Examiner rejected claims 26-65 over the '092 patent for obviousness-type double patenting. The rejection was



PTO/SB/17p (11-04)

Approved for use through 07/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FEE
Under 37 CFR 1.17(f), (g) & (h)
TRANSMITTAL
(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/617,804
Filing Date	July 14, 2003
First Named Inventor	Bernd Zierenberg
Art Unit	3742
Examiner Name	Campbell, Thor S.
Attorney Docket Number	0652.2060002/ALF/MJM

Enclosed is a petition filed under 37 CFR 1.182 that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 400.00 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

Payment of Fees (small entity amounts are NOT available for the petition fees)

☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 19-0036:

☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☒ any deficiency of fees and credit of any overpayments

Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of \$ _____ is enclosed.

☒ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462

For petitions filed under:

- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463

For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c) - for patent owner requests for extension of time in *ex parte* reexamination proceedings.
- § 1.956 - for patent owner requests for extension of time in *inter partes* reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.25 - for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464

For petitions filed under:

- § 1.19(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.


Signature

Albert L. Ferro
Typed or printed name

July 20, 2005
Date

44,679
Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.